

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JACK LECK II,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

CASE NO. 3:15-CV-05869-RJB-JRC

REPORT AND RECOMMENDATION

NOTED FOR: JANUARY 29, 2016

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

On November 30, 2015, petitioner filed a motion for leave to proceed *in forma pauperis* (IFP). Dkts. 1, 4. On December 17, 2015 the Court ordered petitioner to show cause why his IFP motion should not be denied, or in the alternative, that petitioner pay the filing fee. Dkt. 5. Petitioner paid the filing fee on December 23, 2015, and thus, the Court should deny his IFP motion as moot.

## DISCUSSION

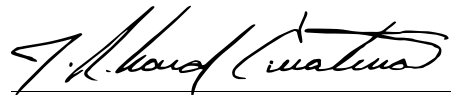
A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). Petitioner paid the \$5.00 filing fee on December 23, 2015. *See* Dkt. entry dated December 23, 2015. Therefore, his IFP motion is moot.

## CONCLUSION

Because petitioner paid the filing fee, the undersigned recommends that the Court deny his IFP motion as moot. Dkt. 1.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), Petitioner shall have fourteen (14) days from service of this Report and Recommendation to file written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set this matter for consideration on **January 29, 2016**, as noted in the caption.

Dated this 4<sup>th</sup> day of January, 2016.



J. Richard Creatura  
United States Magistrate Judge